

### AUTHORITY MINUTES: MONDAY, 27 JUNE 2011 (9:38 - 11:40 AM)

**Present:** Councillor S Kelly (Chair), Councillor I Corbett, Councillor M Dunn, Councillor G Letchford, Councillor B Tebbutt and Councillor V Tewari

#### 1 **Appointment of Chairman, Vice Chairman and ELWA Limited "A" Director for the year 2011/12**

Councillor Kelly, Councillor Vincent and Councillor Corbett were appointed to the roles of Chairman, Vice Chairman and ELWA Limited 'A' Director respectively.

#### 2 **Apologies for Absence**

Councillor G M Vincent; Councillor R Crawford.

#### 3 **Declaration of Members' Interests**

There were no declarations of Members' Interests.

#### 4 **Nominations Under Section 41 of the Local Government Act 1985**

Members received the Monitoring Officers Report and commentary.

**Members agreed** to appoint Councillors Vincent, Tebbutt, Corbett and Dunn as the lead Members for Environment/Waste who will, on behalf of ELWA, answer questions put to them by other Members of their own Constituent Council.

#### 5 **Minutes of previous meeting**

Members requested that previous Annual General Meeting Minutes should be made available at the next and future Annual General Meetings.

**Members agreed** to confirm as correct the minutes of the Authority meeting held on 11 April 2011.

#### 6 **Internal Audit Progress Report 2010/12, Audit Plan 2011/12 and Planned Audit Coverage to March 2016**

The Finance Director presented his report and stated that no major issues had arisen out of the 2010/11 audit.

**Members agreed** to note the audit coverage for 2010/11 and the proposed coverage for 2011/12 and Five Year Strategic Plan as outlined in the report and appendix.

#### 7 **Final Financial Outturn for 2010/2011**

Members received the Finance Director's report which provided a summary of the outturn for the year 2010/11. Commentary was provided in respect of variances in

the accounts.

There is more buoyancy in commercial waste charges and therefore overall surplus is in line with the end of the year.

The Finance Director updated Members on the progress of the financial accounts, a draft set of which will be agreed and passed to the external auditors. Members will receive the final draft accounts for approval in September.

**Members noted** the report.

**Members agreed** to carry forward £100,000 into 2011/12 to cover service pressures.

### 8 Budgetary Control to 30 April 2011

The Finance Director recapped his report. Included in this report was information on the payment from Shanks relating to the equity share sale agreement and the failure to conclude the proposed contract variation.

Members asked that this is not shown in the accounts as it was not an income relating to the operation of the contract. The Finance Director will transfer this amount to a reserve account.

**Members noted** the report.

### 9 External Audit Plan 2010/11

Members received and noted the commentary from the external auditor's representative from PriceWaterhouseCoopers (PWC) relating to the contents of the 2010/11 Audit Plan. Members' attention was drawn to the communications plan and timetable. The Chairman thanked the external auditor for attending.

**Members accepted** the Audit Plan for 2010/11 as presented.

### 10 Contract Monitoring to April 2011

Members received the Managing Directors commentary on this report, presented in the absence of the Head of Operations.

Members discussed the question of diversion targets being lower than those set in the Annual Budget & Service Delivery Plan (ABSDP) as a result of unmarketable Solid Recovered Fuel being generated and problems with the BioMrfs.

Diversion targets were down from those set in the ABSDP. This was mainly as a result of problems with the Bio Mrfs and as a result SRF was unmarketable.

Members expressed concern at the loss of recycling due to contractual failures between Countrystyle and Sita for the disposal of the fines material from the

BioMRFs. Members sought assurance this would not happen again. The managing director confirmed that Shanks had implemented controls, including the tracking of all outputs to their final destination within the UK. He also stated that ELWA was reclaiming the associated recycling performance payments.

Members were pleased with the newly introduced Reuse & Recycling Centres (RRCs) controls, which seemed to be working very well. Tonnage was significantly down with one site achieving a 40% reduction, possibly due to less commercial waste being taken. Discussion took place on the decision to reduce the requirement from two to one form of identification being presented at site and whether this should have been an Authority decision. The Managing Director explained it was changed at the request of one of the Boroughs and its Leader and that for consistency across ELWA, the rule was applied to all four Boroughs.

**Members agreed** to the continued use of one form of ID for the time being.

**Action:** Concern was also raised about the use of photocopied forms of identify and the Managing Director agreed to provide a response for Council Leaders.

**Action:** Procedures would be reviewed after the Summer period.

Another concern was raised about the new controls, suggesting it might be responsible for an increase in fly-tipping in one of the Barking & Dagenham wards which comprised, particularly, beds and other bulky items. Increased fly-tipping had not been reported by other boroughs. Members requested information on this and to be advised about any increase in prosecutions. The Managing Director reported that the sites were being monitored and that random checks would be made.

**Action:** There would be a formal report to Members at the next meeting to include flytipping and prosecutions.

Members expressed concern at the lack of opportunities for making financial savings and discussed the use of bring sites and the possibility of reducing the number of RRCs, especially in the light of reduced tonnages.

One borough was looking at removing bring sites and had concerns about using orange bags for glass recycling. The managing director acknowledged the concerns but pointed out that the contractor was exceeding its contractual obligations for waste diversion from landfill. He reported discussions were ongoing with the contractor about the inclusion of glass in recycling collections and he was due to meet representatives during the week to explore other savings options.

**Action:** The Managing Director agreed to produce a report on the inclusion of glass in the kerbside recycling collections. He also advised the future provision of RRCs would be reviewed in light of forthcoming changes in legislation.

**Members noted** the recommendations set out in paragraphs 2.1, 2.2. and 2.3 regarding ongoing issues with BioMrf fines material and the effects on contract

recycling, LATS performance and associated potential costs to the Authority, the improvements in contract recycling and diversion performance and the effects of the successful implementation of controls at the RRC sites.

### 11 Private Business

**Members resolved** to exclude the public and press from the remainder of the meeting by reason of the nature of the business to be discussed which included information exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended).

### 12 Contract Options

Members discussed contract options and potential ways forward following the Managing Director's commentary on the Head of Operations' report.

The Managing Director advised that the ELWA Operational Management Team (EOMT) had identified two scenarios worth pursuing, following an exercise to attribute costs and savings to each of the options available. EOMT had recognised that waste reduction was the only way forward with influence coming from the collection authorities and not the disposal authority. EOMT would discuss proposals with the Contractor at a meeting on Friday.

The Managing Director responded to questions about Biossense and whether the technique worked, how much ELWA derived SRF would be used resulting in what percentage diversion, the cost of the project and who was funding it as well as could ELWA consider offering capital support and if so, what was the risk of project failure? The Managing Director reported that the technology works in the one plant in Canada and that Shanks expect 90,000 tonnes/year of SRF to be diverted through the plant. He stated ELWA could consider providing support in terms of costs.

**Action:** The Managing Director agreed to report on SRF diversion options at the meeting in September.

**Action:** Engage specialist legal firm to review contractual documentation and options. The Monitoring Officer to provide list of specialist legal firms to the Managing Director.

**Action: Members noted** the recommendations in 2.1(a) and 2.1(b).

**Action: Members approved** the recommendations in 2.1(c) and requested the report include all information, including diversion rates.

### 13 Closed Landfill Strategy - Option Agreement with Thurrock TGDC

London Borough of Havering Members declared a possible interest in this matter. Members agreed to continue with all present.

This report was presented by the Managing Director who confirmed that the recommendation referred to a change to the clause around costs associated with development. All parties were content with the wording the solicitors had drafted.

**Members noted** the current situation in relation to the planning application and that this was a pre-emptive report based on communications between the planning inspector and Thurrock TGDC.

**Members approved** the amendment of Schedule 5 of the option agreement.

**14 Funders' Consent to Contractual Performance Target Changes**

**Members noted** the progress in relation of contractual performance changes. The managing director agreed to clarify the reason behind the lack of approval and identify an alternative incentive variation with the contractor and funders.

**15 Date of next meeting: 26 September 2011**

**Noted** – 26 September 2011

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Minutes agreed as a true record.

Chairman: .....

Dated:.....